SUPREME COURT
OF BRITISH COLUMBIA
VANCOUVER REGISTRY

MAR 07 2013

S-131698

No. _____
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

ESPRESSO CAPITAL PARTNERS TAX CREDIT II FUND
LIMITED PARTNERSHIP

PLAINTIFF

AND:

IMOGO MOBILE TECHNOLOGIES CORP. and STEWART IRVINE

21422 S131698 RISS 200.00

DEFENDANTS

NOTICE OF CIVIL CLAIM

This action has been started by the plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

(a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

(a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and

(b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

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OF BRITISH COLUMBIA
VANCOUVER REGISTRY

MAR 07 2019

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

(a) if you were served with the notice of civil claim anywhere in Canada, within 21 days after that service,

(b) if you were served with the notice of civil claim anywhere in the United States of America, within 35 days after that service,

(c) if you were served with the notice of civil claim anywhere else, within 49 days after that service, or

(d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF(S)

Part 1: STATEMENT OF FACTS

1. The Plaintiff is a British Columbia limited partnership having an office at 400-999 West Hastings Street, Vancouver, British Columbia, V6C 2W2.

2. The Defendant Imogo Mobile Technologies Corp. (the "**Company**") is a corporation duly incorporated under the laws of British Columbia, having an office at 203-4211 Kingsway Avenue, Burnaby, British Columbia, V5H 1Z6.

3. The Defendant Stewart Irvine (the "**Guarantor**") is an individual and the sole director of the Company, having his primary residence at 26123 126 Avenue, Maple Ridge, British Columbia, V2W 1C4.

4. On or about April 23, 2012, the Plaintiff advanced funds in the amount of $200,000.00 (the "**Funds**") to the Company, pursuant to a Loan Agreement dated April 23, 2012 (the "**Loan**") as evidenced by a promissory note (the "**Promissory Note**") executed by the Company in favour of the Plaintiff, whereby the Company promised to pay to the Plaintiff the Loan plus interest at the rate of 2.25% per month (30.60% per annum), calculated and compounded monthly, not in advance.

5. On or about April 23, 2012, the Company entered into a general security agreement (the "**GSA**") whereby the Company granted to the Plaintiff a security interest, mortgage and charge over the undertakings of the Company including all present and after acquired personal property.

6. As further security for the Loan, the Guarantor granted to the Plaintiff a guarantee (the "**Guarantee**") dated April 23, 2012 whereby the Guarantor unconditionally guaranteed the obligations of the Company, to a maximum of $50,000 plus interest, plus all charges, costs and expenses payable in connection therewith, as of the date of demand by the Plaintiff on the Guarantee, including, without limitation, repayment of the Loan.

7. The Loan and interest accrued thereon were payable in full on the earlier of the following dates:

   (a) two business days after the Company received a refund claimed by the Company from the Government of Canada for the Company's T661 Scientific Research and Experimental Development Expenditures Claim (the "**SRED Claim**") for the Company's fiscal year;

   (b) if the SRED Claim refund was less than the amount of the Loan, the Loan was immediately due and payable on the date the SRED Claim refund was received;

   (c) if the SRED Claim was denied in full, the Loan was immediately due and payable; or

   (d) 12 months after the Loan was advanced on April 23, 2012.

8. Pursuant to clause 4.1 of the Loan, the Company makes several covenants (the "**Covenants**") to the Plaintiff, including:

   (a) to remain current and in good standing with Canada Revenue Agency; and

   (b) to provide monthly projected cash flow statements to the Plaintiff.

9. Pursuant to clause 5.1(d) of the Loan, a default of a Covenant is an event of default under the Loan ("**Event of Default**") unless it is cured within fifteen (15) days from notice given to the Company from the Plaintiff of such default or the Plaintiff agrees to waive such default.

10. The Plaintiff further has reason to believe the SRED Claim will be materially less and accordingly substantially impaired from the date of the Loan, which is an additional Event of Default under clause 5.1(g) of the Loan.

11. The Plaintiff provided the Company with notice of the following Events of Default under the Loan, which remain uncured:

    (a) paragraph 4.1(c) to remain current and in good standing with the Canada Revenue Agency;

    (b) paragraph 4.1(h) to provide projected cash flow statements; and

    (c) paragraph 5.1(g) the Plaintiff has reasonable grounds to believe the amount of the SRED Claim will be materially less and accordingly is substantially impaired.

12. Pursuant to clause 5.2 of the Loan, upon the occurrence of an Event of Default, the Plaintiff may declare immediately due and payable the outstanding balance of the Loan and any accrued interest thereon without presentment of notes and without demand.

13. On February 21, 2013, the Plaintiff's counsel sent to the Defendants letters demanding payment of the full outstanding balance of the Loan in the sum of $249,042.40, being the outstanding balance owing under the Loan as of that date.

14. On February 21, 2013, the Plaintiff's counsel also sent to the Guarantor a letter demanding payment of the sum of $50,000.00, being the amount unconditionally guaranteed under the Guarantee in an Event of Default under the Loan.

15. The Defendants have failed to make any payments to the Plaintiff.

16. As at February 21, 2013, the outstanding balance owing under the Loan is $249,042.40 with interest continuing to accrue at the rate set out in the Promissory Note and costs (the "**Debt**").

Part 2: RELIEF SOUGHT

1. Judgment against the Company for the sum of $249,042.40, plus interest at the rate of 2.25% per month (30.60% per annum), from and after February 21, 2013, until the date of payment or judgment;

2. judgment against the Guarantor for the sum of $50,000.00, plus interest at the rate of 2.25% per month (30.60% per annum), from and after February 21, 2013, until the date of payment or judgment;

3. costs; and

4. such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

1. The Defendants breached their agreements with the Plaintiff, including, without limitation the Loan, the Promissory Note, the Guarantee and the GSA, by refusing and/or neglecting to repay to the Plaintiff the Debt, together with all applicable interest and costs.

Plaintiff's address for service:	Lance Williams Davis LLP Barristers & Solicitors 2800 Park Place 666 Burrard Street Vancouver, BC V6C 2Z7
Fax number address for service (if any):	604.687.1612
E-mail address for service (if any):	N/A
Place of trial:	Vancouver
The address of the registry is:	800 Smithe Street Vancouver, BC V6Z 2E1

March 7, 2013
Dated

Davis LLP
Signature of lawyer for plaintiff
Davis LLP (H. Lance Williams)

Rule 7-1 (1) of the Supreme Court Civil Rules states:

(1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

(a) prepare a list of documents in Form 22 that lists

(i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and

(ii) all other documents to which the party intends to refer at trial, and

(b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

Debt

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☐ investment losses
- ☑ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate

☐ a matter not listed here

Part 3: THIS CLAIM INVOLVES:

- ☐ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law
- ☐ conflict of laws
- ☑ none of the above
- ☐ do not know

Part 4: THIS CLAIM INVOLVES:

Law of Contract
Debtor-Creditor Law
Personal Property Security Act (BC)

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PLAINTIFF

AND:

IMOGO MOBILE TECHNOLOGIES CORP. and STEWART IRVINE

DEFENDANTS

NOTICE OF CIVIL CLAIM

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File No. 83439-00017 LZW/KSP/ksp